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SENATE BILL 1071

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

John T. L. Grubestic

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR A SMALL
DISTILLER'S LICENSE; AMENDING THE DOMESTIC WINERY AND SMALL
BREWERY ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
SECTION OF LAW IN LAWS 1998.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-6A-21 NMSA 1978 (being Laws 1983,
Chapter 280, Section 2, as amended) is amended to read:

"60-6A-21. SHORT TITLE.--Sections 60-6A-21 through
60-6A-28 NMSA 1978 may be cited as the "Domestic Winery, [~~and~~]
Small Brewery and Small Distillery Act"."

Section 2. Section 60-6A-22 NMSA 1978 (being Laws 1983,
Chapter 280, Section 3, as amended) is amended to read:

"60-6A-22. DEFINITIONS.--As used in the Domestic Winery,
[~~and~~] Small Brewery and Small Distillery Act:

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underscoring material = new
[bracketed material] = delete

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1 A. "brandy" means an alcoholic liquor distilled
2 from wine or from fermented fruit juice;

3 B. "beer" means any fermented beverage containing
4 more than one-half percent alcohol obtained by the fermentation
5 of any infusion or decoction of barley, malt and hops or other
6 cereal in water, and includes porter, beer, ale and stout;

7 C. "small brewer" means any person who owns or
8 operates a business for the manufacture of beer but does not
9 manufacture more than two hundred thousand barrels of beer per
10 year;

11 D. "proof gallon" means a gallon of liquid at sixty
12 degrees Fahrenheit that contains fifty percent ethyl alcohol by
13 volume or its equivalent;

14 ~~[D.]~~ E. "public celebration" means any state fair,
15 county fair, community fiesta or cultural or artistic
16 performance;

17 F. "small distiller" means a person who owns or
18 operates a business for the manufacture of spirituous liquors
19 but does not manufacture more than one hundred fifty thousand
20 proof gallons per year;

21 ~~[E.]~~ G. "wine" means the product obtained from
22 normal alcoholic fermentation of the juice of sound ripe grapes
23 or other agricultural products containing natural or added
24 sugar, or any such alcoholic beverage to which is added grape
25 brandy, fruit brandy or spirits of wine [~~which~~] that is

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1 distilled from the particular agricultural products of which
2 the wine is made, and other rectified wine products by whatever
3 name ~~[which]~~ that do not contain more than fifteen percent
4 added flavoring, coloring and blending material and ~~[which]~~
5 that contain not more than twenty-four percent of alcohol by
6 volume, and includes vermouth;

7 ~~[F.]~~ H. "wine blender" means a person authorized to
8 operate a bonded wine cellar pursuant to a permit issued for
9 that purpose under the internal revenue laws of the United
10 States but who does not have facilities or equipment for the
11 conversion of grapes, berries or other fruit into wine and does
12 not engage in the production of wine in commercial quantities;
13 provided that any person who produces or blends not to exceed
14 three hundred gallons of wine per year shall not, because of
15 such production or blending, be considered a wine blender; and

16 ~~[G.]~~ I. "winer" means a person licensed as a
17 winegrower."

18 Section 3. A new section of the Domestic Winery, Small
19 Brewery and Small Distillery Act is enacted to read:

20 "[NEW MATERIAL] SMALL DISTILLER'S LICENSE.--

21 A. In any local option district, a person qualified
22 under the provisions of the Liquor Control Act, except as
23 otherwise provided in the Domestic Winery, Small Brewery and
24 Small Distillery Act, may apply for and be issued a small
25 distiller's license.

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1 B. A person issued a small distiller's license
2 pursuant to this section may do any of the following:

3 (1) manufacture or produce spirituous liquors,
4 including aging, filtering, blending, mixing, flavoring,
5 coloring, bottling and labeling;

6 (2) store, transport, import or export
7 spirituous liquors;

8 (3) sell only spirituous liquors that are
9 packaged by or for the small distiller to a person holding a
10 wholesaler's license or a small distiller's license or
11 manufacturer's license;

12 (4) deal in warehouse receipts for spirituous
13 liquors;

14 (5) buy spirituous liquors from other persons,
15 including licensees and permittees under the Liquor Control
16 Act, for use in blending, flavoring, mixing or bottling of
17 spirituous liquors;

18 (6) be deemed a manufacturer for purposes of
19 the Gross Receipts and Compensating Tax Act;

20 (7) conduct spirituous liquor tastings and
21 sell, by the glass or by the bottle or sell in unbroken
22 packages for consumption off the premises but not for resale,
23 spirituous liquors of the small distiller's own production or
24 spirituous liquors produced by another New Mexico small
25 distiller or New Mexico manufacturer on the small distiller's

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1 premises; and

2 (8) at no more than two other locations off
3 the small distiller's premises, after the small distiller has
4 paid the applicable fee for a small distiller's off-premises
5 permit, after the director has determined that the off-premises
6 locations meet the requirements of the Liquor Control Act and
7 department rules for new liquor license locations and after the
8 director has issued a small distiller's off-premises permit for
9 each off-premises location, conduct spirituous liquor tastings
10 and sell by the glass or in unbroken packages for consumption
11 and not for resale, spirituous liquors produced and bottled by
12 or for the small distiller or spirituous liquors produced and
13 bottled by or for another New Mexico small distiller or
14 manufacturer.

15 C. Sales and tastings of spirituous liquors authorized
16 in this section shall be permitted during the hours set forth
17 in Subsection A of Section 60-7A-1 NMSA 1978 and between the
18 hours of noon and midnight on Sunday and shall conform to the
19 limitations regarding Christmas and voting-day sales set forth
20 in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales
21 hours to 2:00 a.m. on January 1, when December 31 falls on a
22 Sunday."

23 Section 4. Section 60-6A-27 NMSA 1978 (being Laws 1983,
24 Chapter 280, Section 8, as amended by Laws 1998, Chapter 109,
25 Section 5 and also by Laws 1998, Chapter 111, Section 2) is

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1 amended to read:

2 "60-6A-27. LICENSE FEES.--Every application for the
3 issuance or annual renewal of the following licenses and
4 permits shall be accompanied by a license fee or permit fee in
5 the following specified amounts:

6 A. brandy manufacturer's license, seven hundred
7 fifty dollars (\$750);

8 B. small brewer's license, seven hundred fifty
9 dollars (\$750);

10 C. wine blender's license, seven hundred fifty
11 dollars (\$750);

12 D. wine exporter's license, five hundred dollars
13 (\$500);

14 E. small brewer's public celebrations permit, ten
15 dollars (\$10.00) for each public celebration; ~~and~~

16 ~~F.]~~ F. small brewer's off-premises permit, two
17 hundred dollars (\$200) for each off-premises location;

18 G. small distiller's license, seven hundred fifty
19 dollars (\$750); and

20 H. small distiller's off-premises permit, two
21 hundred dollars (\$200) for each off-premises location."

22 Section 5. TEMPORARY PROVISION--APPLICATIONS FOR
23 LICENSE.--

24 A. If a person has submitted an application for a
25 manufacturer's license as a distiller to the director of the

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1 alcohol and gaming division of the regulation and licensing
2 department and, on July 1, 2007, the application has not yet
3 been approved, the person may submit a request in writing to
4 the director no later than July 31, 2007 to convert the
5 application from a manufacturer's license as a distiller to an
6 application for a small distiller's license in accordance with
7 procedures adopted by the director.

8 B. If, within one hundred twenty days prior to or
9 subsequent to July 1, 2007, a person obtains approval for a
10 manufacturer's license as a distiller, the person may submit a
11 request in writing to the director of the alcohol and gaming
12 division of the regulation and licensing department to convert
13 the manufacturer's license as a distiller to a small
14 distiller's license pursuant to procedures adopted by the
15 director and upon payment of licensing fees as provided in
16 Section 60-6A-27 NMSA 1978. There shall be no refunds of
17 application or licensing fees unless otherwise provided by law.

18 Section 6. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2007.

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